IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23463 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KANTILAL MOHANBHAI SITAPARA - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR PK CHANDARANA for Petitioner(s) : 1,MR JAYESH A KOTECHA for Petitioner(s) : 1,
MR LR PUJARI GOVERNMENT PLEADER for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 17/12/2007

ORAL JUDGMENT

1.0 By way of this petition, the petitioner has prayed to quash and set aside the orders passed by the Deputy Collector-respondent No.3, herein, dated 30.04.2001 as well as the order

dated 07.04.2006.

2.0 The brief facts of the case are that the petitioner, herein, purchased a flat being Flat No.401, 4th Floor, Navrang Apartment situated in Royal Park area of Rajkot city from one Shree Reena Enterprise for Rs.7,66,260/- vide registered Sale Deed dated 12.05.2000. In pursuance of that a notice dated 10.01.2001 came to be issued to the petitioner under Rule-4 of the Bombay Stamp(Determination of Market Value of the Property) Rules, 1984 alleging that the market value of the flat in question was Rs,17,55,000/- and, the petitioner was directed to pay the deficit stamp duty of Rs.98,850/-. The petitioner, therefore, appeared before the respondent No.3 on 24.01.2001 and made oral representation to provide the details of valuation and to afford an opportunity of hearing to him. However, instead of giving an opportunity of hearing to the petitioner, respondent No.3 issued the Attachment Notice

dated 19.12.2001 confirming the value of the property mentioned in the notice dated 10.01.2001. Through the aforesaid Attachment Notice the petitioner came to know that respondent No.3 had already passed a Final Order in respect of the property in question dated 30.04.2001 stating that no valid representation was made on behalf of the petitioner.

2.1 The petitioner, thereupon, deposited 25 per cent amount of the total deficit stamp duty and preferred an appeal against the aforesaid order before the appellate Authority i.e. the Chief Controlling Revenue Officer (Stamps), Gandhinagar on 24.12.2001. Thereafter, vide communication dated 07.04.2006 sent by respondent No.3, the petitioner came to know that his appeal was rejected by the Appellate Authority on the ground of delay. Hence, the present petition.

3.0 Mr. Kotecha, learned Advocate for the petitioner has submitted that the respondent No.3

ought to have given an opportunity of hearing to the petitioner before passing the impugned order.

3.1 Learned Advocate has further submitted that since the appeal was preferred before the appellant Authority at Gandhinagar, the point of limitation would have to be decided by the appellate Authority and not by respondent No.3.

3.2 Learned Advocate has submitted that neither any material supplied nor any reasons are assigned for the valuation done by the respondent No.3 and that the orders have been passed in a cyclostyled form by filling up blanks.

4.0 Heard learned Counsel for the parties and perused the documents placed on record. From the record it transpires that the show-cause notice as well as order passed by respondent No.3 are in printed forms and that the same are issued by filling blanks. Apart from that, respondent No.3

has not supplied any material to the petitioner on the basis of which the valuation of the property has been determined. In that view of the matter here it would be relevant to refer to decision of this Court in the case of ***"B.M. Bharwad Vs. State"*** reported in 2005(2) GLR 1792 wherein ***it has been observed that it is the statutory duty of the Officer to convey in the notice the material on the basis of which the valuation of the property has been determined***.

4.1 In the case on hand, the respondent No.3 has not supplied any material to the petitioner on the basis of which the valuation of the property of the petitioner was determined and on the basis of which respondent No.3 came to the conclusion that the stamp duty paid by the petitioner is less. Apart from that from the record it transpires that on 24.01.2001, though, the petitioner had remained present before the respondent No.3 and had made oral submissions, the same were not taken into consideration by

respondent No.3. On the contrary, respondent No.3 observed that no valid representation was made by the petitioner and without giving an opportunity of hearing to the petitioner, passed the impugned order.

4.2 The aforesaid fact shows that the respondent No.3 has passed the impugned orders mechanically, without applying his mind. Admittedly, there have been neither any material supplied nor any reasons assigned by respondent Nos. 3 for passing the impugned orders.

4.3 The respondent No.3 is quasi-judicial Authority, and hence,being a quasi-judicial authority, it is required to supply the relevant material on the basis of which the valuation of the property of the petitioner was determined. Apart from that, it is also required to deal with the contentions raised by the parties concerned and to consider various provisions of the Act and the law laid down by this Court. I am, therefore,

of the opinion that the ends of justice would be met if the matter is remanded to the respondent No.3 for its consideration afresh on merits.

5.0 In the result, the petition is allowed. The impugned orders passed by respondent No.3-the Deputy Collector (Stamps), Rajkot dated 30.04.2001 as well as the order dated 07.04.2006 are quashed and set aside. The matter is remanded to the respondent No.3-Authority for its consideration afresh. The respondent No.3-Authority, after hearing the petitioner and after considering all the contentions raised before it, shall pass a reasoned order without being influenced by the order passed by this Court. Rule is made absolute. No order as to costs. Direct service is permitted.

(M.D. Shah,J.)

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